IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

ROBERT MARTINEZ,	§	
	§	
Petitioner,	§	
	§	
v.	§	2:19-CV-126-Z
	§	
LORIE DAVIS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

MAY 29 2020

CLERK, U.S. DISTRICT COURT
By _____
        Deputy

**ORDER ADOPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
AND
DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

On May 7, 2020, the United States Magistrate Judge entered findings and conclusions (ECF No. 13) on Petitioner's "Petition for a Writ of Habeas Corpus by a Person in State Custody" (the "Petition") (ECF No. 3). The Magistrate Judge RECOMMENDS that the Petition be DENIED as time-barred. No objections to the findings, conclusions, and recommendation have been filed. After making an independent review of the pleadings, files, and records in this case, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. It is therefore ORDERED that the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED and that the Petition (ECF No. 3) is DENIED.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because petitioner has failed to make "a substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529

U.S. 473, 484 (2000); *see also Hernandez v. Thaler*, 630 F.3d 420, 424 (5th Cir. 2011). The Court ADOPTS and incorporates by reference the Magistrate Judge's findings, conclusions, and recommendation filed in this case in support of its finding that petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack*, 529 U.S. at 484.

If petitioner files a notice of appeal, he may proceed *in forma pauperis* on appeal. *See* Federal Rule of Appellate Procedure 24(a)(3).

SO ORDERED.

May 29, 2020.

MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE